

**Contract Improvement Process
Risk Assessment Subcommittee
Notes from October 17, 2006
and Risk Assessment Model**

Attendees:

Clark Bolser
Ken Witt
Maggie Van Cleef
Harry McCabe
Michelle Lee
Kathy Heese
Judy Giovanni
Bob Jaros

Summary of Discussion Points:

- Kathy Heese (Dept of Revenue), Maggie Van Cleef (DNR), and Michelle Lee (Human Services) completed a risk assessment for certain contracts in their agencies
- Dept of Revenue – 3 contracts – 2 low and 1 high using risk assessment tool. Kathy agreed with the classifications determined using the tool. One of the contracts may have had a different assessment from the AG and SCO. Kathy suggested that we add a consideration of whether the contractor had an exclusive or non-exclusive agreement. Perhaps this could be added as a bullet point under #7.
- DNR – 31 contracts in total, 24 automatic low risk, 7 completed risk assessment – all were low risk. Maggie agreed with the risk categorization using the tool. She suggested that we had bullet points on what to look for in the statement of work.
- Human Services – 3 contracts – all low risk. Michelle would like to see bullet points under each factor.
- Ken Witt mentioned that legal issues usually concern 1) choice of law (alternative is to be silent) and 2) Indemnification (need to set limits for what is acceptable)

Proposed Agenda for Next Meeting – Tuesday, October 26, 10:00am to 12:00 am Conf Rm 15A, 633 17th Street

- Pilot Program for Risk Assessment
- Details for the risk assessment factors – bullet points under each one
- Describe how to complete risk assessment
- Describe how to complete risk analysis
- What should executive summary include for high risk contracts
- Role of insurance in risk assessment – CU Purchasing Manual
- Sufficiency Review

**Contract Improvement Process
Risk Assessment Model
As of October 17, 2006**

Process

There will be three categories of risk:

- **Low risk – automatic** - agencies can approve contracts in these situations
- **High risk – automatic** – contracts sent to SCO for review and potentially to the AG
- **Other situations – risk assessment required** – Agency completes risk assessment and if:
 - Low risk – Agency can approve contracts in this situation if delegated after documenting reasons for low risk
 - High risk – Agency can:
 - Agency would complete an executive summary that outlines the risks and shows how agency addressed those risks
 - Agency could request AG/SCO involvement up front
 - Complete a risk analysis with the program staff.
 - If still high risk, then send to SCO for review with executive summary
 - If low risk, then Agency can approve contracts in this situation if delegated after documenting reasons for low risk

Categories of Risk

- **Low Risk – Automatic - No Risk Assessment Needed:**
 - Interagency agreements with standard dispute resolution clause
 - Waived contracts
 - Modification tools
 - Amendments that do not change the scope of the contract. Factors to consider:
 - Extend ending date by one year or less
 - Original contract was low risk
 - Passes Purchasing Review – no scope creep
 - Amendment is 7 years or less after original contract approved
 - Re-statement of amendments
 - Amendment does not add complexity to original contract or prior amendments
- **High Risk – Automatic - No Risk Assessment Needed:**
 - Any change to special provisions
 - Construction financing
 - Contingency contracts defined by CRS 24-17-203
 - Energy Performance contracts 24-30-2000?
 - Lease Purchase

- Change to Indemnity provision
- Operation of prisons
- Acquisition/disposal of real property interest

- **Other Situations - Risk Assessment Required**

- Completed for ALL contracts other than the two types above
- Completed by Program Staff. Agency could override the assessment of Program Staff
- Factors (if yes, then low risk or if low score, then low risk):
 1. Dollar amount within the limits established by delegation. Examples below:
 - Delegated agencies (\$500,000 to \$1 million)
 - Agencies not delegated (\$100,000)
 2. Contract uses standard State template language (Statewide wizard)
 3. Clearly sufficient Statement of Work
 4. Clearly reliable contractor based on past performance and other credible factors
 5. Nature and complexity of the contracts is within agency norms and experience
 6. Contract is not for: IT services and software, construction contracts, operating lease, limitation of liability of vendor, inherently dangerous activities, or hazardous materials
 7. Contract has no other aspects or factors suggesting adverse risk to the state
- Agency would either:
 - Answer each question above with a Yes (low risk) or No (high risk), and then use judgment to categorize the contract
 - if all are Yes, then Low Risk,
 - if all are No then high risk
 - if a few are Yes and these are more important than the No's then Low Risk
 - Answer each question on a scale of 1 to 5 and then depending on the total score, categorize the contract as high or low risk